JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

SHAYA EDELMAN, individually, and on behalf of all others similarly situated,

(b) County of Residence of First Listed Plaintiff Montgomery Co., PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Levin Sedran & Berman
510 Walnut Street, Suite 500
Philadelphia, PA 19106 (215) 592-1500

DEFENDANTS

HIGHER ONE HOLDINGS, INC., WEX BANK, INC., CUSTOMERS BANCORP., INC.

County of Residence of First Listed Defendant New Haven, Co., CT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 USC Section 1332

Brief description of cause:
False, misleading and deceptive advertising

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $ 5,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ____________ DOCKET NUMBER ____________

DATE 04/13/2017 SIGNATURE OF ATTORNEY OF RECORD ____________

FOR OFFICE USE ONLY

RECEIPT # ________ AMOUNT ________ APPLYING IFP ________ JUDGE ________ MAG. JUDGE ________

JS 44 Reverse (Rev. 07/16)

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.)**

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statue.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 608 Jamie Circle, King of Prussia, PA 19406

Address of Defendant: 115 Munson Street, New Haven, CT 06511-3540

Place of Accident, Incident or Transaction: Montgomery County, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: ________ Judge ________ Date Terminated: ________

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes ☐ No ☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
 (Please specify) ________

B. *Diversity Jurisdiction Cases:*

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases
 (Please specify) Consumer Protection

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Charles E. Schaffer, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 04/13/2017 ________ (signature) Attorney-at-Law 76259 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/13/2017 ________ (signature) Attorney-at-Law 76259 Attorney I.D.#

CIV. 609 (5/2012)

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 608 Jamie Circle, King of Prussia, PA 19406

Address of Defendant: 115 Munson Street, New Haven, CT 06511-3540

Place of Accident, Incident or Transaction: Montgomery County, PA
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☐ No☒

RELATED CASE, IF ANY:
Case Number: ________ Judge ________ Date Terminated: ________

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes☐ No☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes☐ No☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes☐ No☒

CIVIL: (Place ✔ in ONE CATEGORY ONLY)

A. *Federal Question Cases:*
1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) ________

B. *Diversity Jurisdiction Cases:*
1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☒ All other Diversity Cases
(Please specify) Consumer Protection

ARBITRATION CERTIFICATION
(Check Appropriate Category)

I, Charles E. Schaffer, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000.00 exclusive of interest and costs;

☒ Relief other than monetary damages is sought.

DATE: 04/13/2017 ________ Attorney-at-Law 76259 Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/13/2017 ________ Attorney-at-Law 76259 Attorney I.D.#

CIV. 609 (5/2012)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

SHAYA EDELMAN, individually, and on behalf of all others similarly situated,	:	CIVIL ACTION
v.	:	
HIGHER ONE HOLDINGS, Inc., WEX BANK, Inc., CUSTOMERS BANCORP, Inc.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

04/13/2017	Charles E. Schaffer	Plaintiff, Shaya Edelman
Date	**Attorney-at-law**	**Attorney for**
(215) 592-1500	(215) 592-4663	cschaffer@lfsblaw.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track

(a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.

(b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

(c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.

(d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.

(e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

SHAYA EDELMAN, individually, and on behalf of all others similarly situated, **Plaintiff,** **v.** **HIGHER ONE HOLDINGS, Inc., WEX BANK, Inc., CUSTOMERS BANCORP, Inc.,** **Defendants.**	**Case No.:** **CLASS ACTION COMPLAINT** **JURY TRIAL DEMANDED**

CLASS ACTION COMPLAINT

Plaintiff Shaya Edelman ("Plaintiff"), through undersigned counsel, on behalf of herself and all persons similarly situated, alleges the following based on personal knowledge as to allegations regarding the Plaintiff, and on information and belief as to other allegations.

INTRODUCTION

1. This is a class action seeking monetary damages, restitution, and declaratory relief from Defendants, Higher One Holdings, Inc., ("Higher One"), WEX Bank, and Customers Bancorp, Inc., (collectively, "Defendants"), arising from their unfair and unconscionable practices of automatically creating bank accounts for college students, depositing students' financial aid funds into these newly created Higher One accounts ("OneAccounts"), deceptively, and at times coercively, preventing students from opting-out of such accounts, and assessing deceptive and unusual bank fees on student accounts.

2. Higher One, which is not a bank, partnered with WEX Bank and/or Customers Bancorp to provide checking account and debit card services to students between December 20,

2013, and June 30, 2016 (the "Relevant Period"). The term "Defendants" means Higher One and its banking partner at the relevant time.

3. In June 2016, Customers Bancorp acquired certain assets of Higher One, including the OneAccount disbursements business, which is at issue in this case.

4. Generally, Plaintiff's direct contact had been with Higher One, which sent account documents, contracts, disclosures, a debit card, and various marketing materials to Plaintiff. Upon information and belief, WEX Bank or Customers Bancorp detained Plaintiff's financial aid funds, issued debit cards, and assessed the fees described herein, pursuant to instructions and policies devised in cooperation with Higher One during the relevant period.

5. Higher One made arrangements with hundreds of colleges and universities around the country whereby a student's financial aid refund—the money left over after the school deducts its tuition and fees, money which students require for necessities like books and living expenses—was automatically deposited by Defendants into a Higher One bank account ("OneAccount") and was linked to a Higher One debit card. The financial aid refunds included scholarship, federal financial aid, and/or loan money (including Title IV, Higher Education Act ("HEA") program funds) (hereafter, "Financial Aid Funds"). Defendants were aware the deposited funds were comprised of financial aid refunds, as they received the funds directly from colleges and universities.

6. While holding the Financial Aid Funds, to which students were entitled, Higher One forced students to affirmatively opt-out of the OneAccount if they cannot or do not wish to suffer a delay in their receipt of funds that were rightfully theirs, or if they wished to not use a OneAccount for other reasons.

7. Higher One employed multiple tactics to ensure that students *failed* to opt-out of using a OneAccount: first, it sent students unsolicited "co-branded" debit cards and

accompanying materials, which misled students to believe that the OneAccounts were endorsed or required by the student's college or university, or at least necessary to gain access to student services that may need the presentation of school identification; second, Higher One, in concert with WEX Bank and/or Customers Bancorp, caused delayed access to financial aid funds for students who chose to "opt-out" and use other banking providers; third, Higher One concealed the true costs of the OneAccounts by making its fee disclosures confusing and/or difficult to access.

8. Students dealing with Higher One during the Relevant Period could only gain immediate access to their own Financial Aid Funds by not opting-out of the OneAccount that had been created for them. Because financial aid recipients are generally dependent on their financial aid money for living expenses and other necessities, Defendants effectively coerced students to remain in the default option, *i.e.*, use a OneAccount, in order to get prompt access to their funds.

9. These tactics have been extraordinarily successful: Higher One has stated publicly that approximately 80% of students remain in the "default" option. Having secured a captive audience, at least one Defendant[1] proceeded to assess and collect deceptive, improperly disclosed, and in many cases unavoidable bank fees on these accounts.

10. Once a student started using a OneAccount, he or she was assessed unconscionable and unusual bank fees. These fees were charged primarily to students who could ill afford them.

11. Higher One and its banking partners have been repeatedly sanctioned for their unscrupulous business practices. In 2014, Higher One, along with the predecessor company of WEX Bank and an additional co-defendant, settled with a class of plaintiffs alleging abuses

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[1] Without the benefit of discovery, Plaintiffs cannot specify which Defendant or Defendants actually perform the task of assessing and collecting the complained-of bank fees. Where the exact contours of the relationships between named Defendants is unknown to Plaintiffs, Plaintiffs use the terminology "at least one Defendant."

similar to those alleged here. That class was comprised of students who opened accounts with Higher One between July 1, 2006 and August 2, 2012. As part of that settlement, Higher One set aside a fund of $15 million to compensate that class of students. It also made specific promises to change its tactics and stop deceiving students.

12. Instead, Defendants continued to assess improper fees and engage in deceptive practices, attracting further sanctions from financial industry authorities.

13. On December 23, 2015, Higher One executed an FDIC Consent Order in response to the FDIC's determination that Higher One had "engaged in deceptive acts or practices in or affecting commerce, in violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), arising from the marketing to and enrollment of consumers into the OneAccount product offered through the Bank" (the "FDIC Consent Order").[2] The FDIC found that "the Higher One website and associated materials used for selecting the disbursement method for refunds contained material omissions about certain fees, features, and limitations of the OneAccount, which were likely to mislead students acting reasonably under the circumstances. Information about certain fees, features, and limitations of the OneAccount was omitted entirely or was not clear and conspicuous." As part of the Consent Order, Higher One was required to set aside $31,000,000 for the restitution of injured customers who opened Higher One accounts between May 4, 2012 and December 19, 2013.

14. The FDIC Consent order specifically noted that "[r]estitution provided by Higher One shall not limit consumers' rights in any way."

15. On December 23, 2015, Higher One received an Order to Cease and Desist and Order of Assessment of Civil Money Penalty from the Board of Governors of the Federal Reserve

[2] The FDIC Consent Order is attached as Exhibit A.

System (the "Fed Order").[3] The Fed Order noted substantially the same violations as the FDIC Consent Order. It required Higher One to correct is ongoing violations and to deposit $24,000,000 into a fund for the restitution of deceptive fees charged to customers who opened Higher One accounts between May 4, 2012 and December 19, 2013.

16. The Fed Order specifically noted that "[r]estitution provided by Higher One shall not limit consumers' rights in any way."

17. Despite the penalties it had received, and its promises to change its behavior, Higher One continued to profit from deceptive practices and improper fees during the Relevant Period, from December 20, 2013, to June 30, 2016. Its continuing violations of law during that period were referenced in the FDIC Consent Order and Fed Order, and are also evidenced, upon information and belief, in a Nov. 3, 2014 Visitation Letter issued to Higher One by the FDIC.

18. Higher One's violations during the Relevant Period include, but not limited to:

- Prior to June 30, 2016, continuing to charge a 50 cent PIN-Based Transaction Fee at the point of sale;
- Prior to June 30, 2016, continuing to charge unreasonable Non-Higher One ATM Fees, and prior to May 4, 2016, not making Higher One ATMs reasonably available and accessible;
- Prior to June 30, 2016, continuing to charge Overdraft Fees;
- Prior to June 17, 2016, continuing to inadequately disclose said Fees; and
- Prior to June 17, 2016, continuing to use deceptive and misleading marketing tactics to induce students to use Higher One's accounts to receive their financial aid refunds.

[3] The Fed Order is attached as Exhibit B.

19. Targeting students with excessive bank fees—and using scarce Financial Aid Funds (much of which is taxpayer money) to pay those fees—is unethical, contrary to public policy, and makes it more difficult for students to avoid crippling education-related debt. It violates the public policy expressed by various federal Department of Education ("DOE") regulations, including 34 C.F.R. 668.164(c)(3)(iv), which applied during the Relevant Period, and which states that regardless of how students receive their financial aid refunds, entities are prohibited from charging a fee for delivering those funds. It also violates the public policy expressed by the HEA, which limits the use of federal financial aid funds to educational expenses.

20. Many students pay Defendants' unconscionable bank fees with borrowed money, often at 7 percent interest or higher. Many students receiving grant and financial aid are low-income, with a disproportionately higher level of need than the general student body.

21. In sum, Defendants collectively violated Plaintiff and class members' statutory and common law rights because: (1) Defendants created a OneAccount for students without their consent; (2) Defendants made misrepresentations and omissions, and placed unconscionable burdens upon using other banking options to inhibit Plaintiff and other students from opting out of the OneAccount; and (3) Defendants charged Plaintiff and other students inadequately disclosed, unforeseeable, deceptive, and unconscionable bank fees.

22. Had Defendants not automatically opened accounts on Plaintiff's behalf, plied her with deceptively co-branded debit cards and associated documents, failed to adequately disclose account costs, and placed burdens (including delayed receipt of funds) on Plaintiff if she chose to opt-out of Higher One's services, Plaintiff would have chosen to receive financial aid funds into her existing bank, or another bank which offers similar checking services without the unconscionable fees discussed herein—many of which are rarely, if ever, charged by other banks.

JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy exceeds $5 million, exclusive of interest and costs, and is a class action in which some members of the classes are citizens of states different than Defendants. *See* 28 U.S.C. § 1332(d)(2)(A). This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff's state law claims for violations of the consumer protection statutes of Pennsylvania, and for rescission, conversion, and unjust enrichment.

24. Venue properly lies in this District pursuant to 28 U.S.C. § 1391, because a substantial part of the events or omissions giving rise to this action occurred in this District.

THE PARTIES

25. Plaintiff Shaya Edelman ("Plaintiff Edelman") is a citizen of the state of Pennsylvania, residing at 608 Jamie Circle, King of Prussia, PA 19406. Plaintiff Edelman has incurred PIN-Based Transaction Fees and non-Higher One ATM Transaction Fees. Plaintiff Edelman was charged these fees because Defendants opened a OneAccount into which Plaintiff's Financial Aid Funds were deposited; because, without requesting it, Plaintiff Edelman received a co-branded, preloaded card from Higher One bearing the word "DEBIT" and the name and logo of her institution of higher education, misleading her into believing that using a OneAccount was her best or only option; because she was forced to visit a Higher One website in order to expediently access funds that were rightfully hers; because she was not provided easy access to the Fee Schedules that described the unconscionable and unusual fees charged by Defendants; because, due to the extremely limited number of Higher One ATMs provided and the limited accessibility of those ATMs, she was forced to use non-Higher One ATMs and incur

unconscionable fees to access her money; and because she was not clearly or properly informed that in order to avoid the PIN-Based Transaction Fees when using the card at the point of sale, she was required to cancel the "debit" option preferred by vendors and instead force vendors to charge her card using the "credit" option on their payment processing devices.

26. Defendant Higher One, according to its website, "is a leading payments technology provider for higher education . . . which has been trusted for more than 25 years, has helped college and university campuses implement PCI-compliant processes for simplifying electronic billing, accepting payments all over campus, offering flexible tuition payment plans and creating online storefronts." Higher One, which reported revenues of $157 million in 2015, is a corporation established under the laws of the state of Delaware, with its principal place of business in New Haven, Connecticut.

27. At some or all relevant times, defendant WEX Bank provided Higher One customers with Federal Deposit Insurance Corporation ("FDIC")-insured depository services for checking accounts. WEX Bank is a corporation established under the laws of the state of Delaware, with its principal place of business in Midvale, Utah. It is a wholly-owned subsidiary of WEX Inc., a Delaware corporation with its primary place of business in South Portland, Maine.

28. At some or all relevant times, defendant Customers Bancorp provided Higher One customers with FDIC-insured depository services for checking accounts. Customers Bancorp is a corporation established under the laws of the state of Delaware, with its primary place of business in Wyomissing, Pennsylvania.

CLASS ALLEGATIONS

29. Plaintiff brings this action on behalf of herself, and all others similarly-situated, pursuant to Fed. R. Civ. P. 23. This action satisfies the numerosity, commonality,

typicality, adequacy, predominance and superiority requirements of Rule 23.

30. The proposed Classes are defined as:

> The Class: All current and former Higher One account holders in the United States who opened a Higher One account after December 20, 2013, and incurred a PIN-based Transaction Fee, a non-Higher One ATM Fee, or an Overdraft Fee (the "National Class").
>
> The State Subclass: All Class members who are citizens of Pennsylvania, for the purpose of asserting claims under their state consumer protection statute (the "State Subclass") (*see* First Claim for Relief, *infra*).

The National Class and the State Subclass are collectively referred to as the "Classes."

31. Plaintiff reserves the right to modify or amend the definition of the proposed Classes before the Court determines whether certification is appropriate.

32. Excluded from the Classes are Defendants, their parents, subsidiaries, affiliates, officers and directors, any entity in which Defendants have a controlling interest, all customers who make a timely election to be excluded, governmental entities, and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

33. The members of the Classes are so numerous that joinder is impractical. The Classes consist of thousands of members, the identity of whom is within the knowledge of and can be ascertained only by resort to Defendants' records.

34. The representative Plaintiff's claims are typical of the claims of the Classes in that the representative Plaintiff, like all Class members, was improperly misled into using a Higher One account and then improperly charged bank fees by Higher One. The representative Plaintiff, like all Class members, has been damaged by Higher One's misconduct in that she has been misled into using a Higher One account to access Financial Aid Funds, and has been assessed unfair and unconscionable bank fees. Furthermore, the factual basis of Defendants' misconduct is common to all Class members, and represents a common thread of

unfair and unconscionable conduct resulting in injury to all members of the Classes.

35. There are numerous questions of law and fact common to the Classes and those common questions predominate over any questions affecting individual Class members.

36. Among the questions of law and fact common to the Classes are whether at least one Defendant engaged in the following practices during the relevant time:

a. Automatically opening OneAccounts on behalf of students and depositing financial aid refunds into such accounts prior to receiving students' consent;

b. Without students' consent, mailing a pre-loaded and/or co-branded debit card and associated materials to students, and deceptively representing or implying that Higher One is endorsed by, or is the preferred banking partner of, a student's college or university;

c. Deceptively encouraging students not to opt-out of their OneAccounts without adequately disclosing the true nature of those accounts, including their unconscionable and unusual usage fees;

d. Creating impediments for students to opt-out of the OneAccount by, without limitation, delaying access to financial aid monies for students who choose not to use the Higher One card and account;

e. Deceiving students about, and not adequately disclosing, PIN Transaction Fees by, among other things, labeling the Higher One access device a "debit card" even though a student must use it as a "credit" card to avoid the fee;

f. Not providing means by which students can reasonably avoid PIN Transaction Fees;

g. Not providing means by which students can reasonably avoid non-Higher One ATM Transaction Fees;

h. Requiring customers to enter into standardized account agreements which include unconscionable provisions;

i. Violating DOE regulations and guidance;

j. Violating the terms of the FDIC Consent Order, the Fed Order, and Higher One's 2014 settlement with consumers;

k. Converting money belonging to Plaintiff and other members of the Classes through their policies and practices;

l. Unjustly enriching itself through its policies and practices;

m. Violating the Pennsylvania Consumer Protection Act through their policies and practices; and

n. Violating the Electronic Funds Transfer Act and Regulation E.

37. Other questions of law and fact common to the Classes include:

a. The proper method or methods by which to measure damages; and

b. The declaratory relief to which the Classes are entitled.

38. Plaintiff's claims are typical of the claims of other class members, in that they arise out of Defendants' same wrongful policies and practices of and Higher One's account documents' same or substantially similar unconscionable provisions. Plaintiff has suffered the harm alleged herein and has no interests antagonistic to the interests of any other Class member.

39. Plaintiff is committed to the vigorous prosecution of this action and has retained competent counsel experienced in the prosecution of class actions and, in particular, class actions on behalf of consumers and against financial institutions. Accordingly, Plaintiff is an adequate class representative and will fairly and adequately protect the interests of the Classes.

40. A class action is superior to other available methods for the fair and efficient

adjudication of this controversy. Since the amount of each individual Class member's claim is small relative to the complexity of the litigation, and due to the financial resources of Defendants, no Class member could afford to seek legal redress individually for the claims alleged herein. Therefore, absent a class action, the Class members will have no remedy for their losses.

41. Even if Class members themselves could afford such individual litigation, the court system could not. Given the complex legal and factual issues involved, individualized litigation would significantly increase the delay and expense to all parties and to the Court. Individualized litigation would also create the potential for inconsistent or contradictory rulings. By contrast, a class action presents far fewer case management difficulties, allows claims to be heard which might otherwise go unheard because of the expense of bringing individual lawsuits, and provides the benefits of adjudication, economies of scale and comprehensive supervision by a single court.

PLAINTIFF'S ALLEGATIONS

Plaintiff Edelman

42. Plaintiff Edelman is a former student at Montgomery Community College, and formerly a checking account customer of Higher One.

43. In connection with her account, Defendants issued a debit card to Plaintiff Edelman, called a "Mustang Card," which also served several other crucial campus functions at Montgomery Community College, including student identification.

44. At least one Defendant wrongfully charged Plaintiff Edelman fees on numerous occasions.

45. For example, Plaintiff Edelman was charged PIN-Based Transaction Fees on October 15, 2014, and October 16 and 19, 2015.

46. For example, Plaintiff Edelman was charged non-Higher One ATM Transaction Fees twice on October 14, 2014, once on October 15, 2014, twice on October 17, 2014, and twice on November 3, 2014.

47. Based on information and belief, the fees assessed to Plaintiff Edelman are representative of millions of dollars of fees that Defendants wrongfully assessed and deducted from student customers' accounts.

Defendants Opened an Account on Behalf of Plaintiff Without Authorization

48. Without Plaintiff's authorization, Defendants acquired sensitive personal information from Plaintiff's educational institution and used this information to open a bank account and distribute a pre-loaded debit card to Plaintiff.

49. Without Plaintiff's authorization, Defendants acquired all financial aid refund money owed to Plaintiff by her college. Upon information and belief, Defendants held that money in an account pre-opened for her without her consent.

Defendants Pressured and Misled Plaintiff Into Use of the Higher One Account

50. Because Defendants served as gatekeepers to Plaintiff's financial aid money, Plaintiff was required to interact with Higher One to receive critically needed funds.

51. Higher One used various tactics to ensure that Plaintiff did not opt-out of the use of the OneAccount: first, it sent Plaintiff an unsolicited and deceptively co-branded debit card and associated materials, which suggested that her educational institution endorsed or preferred that she use a OneAccount; second, it (along with other Defendants) promised to delay access to financial aid funds if Plaintiff chose to use other banking providers to receive her financial aid money; third, it obscured or inadequately disclosed the true fees and costs associated with the OneAccount.

Higher One Sent Plaintiff Deceptively "Co-Branded" Debit Cards and Associated Materials That Indicated Higher One Was the Preferred Choice of Her Educational Institution

52. Higher One aggressively marketed its services directly to students via email and direct mail without students' consent.

53. The HigherOneAccount.com co-branded websites had school-specific web addresses that falsely and deceptively implied an official endorsement by students' institution of higher education. For example, Plaintiff was directed to "mustangcard.com", where the Mustangs were the mascot of her college.

54. Near the beginning of a semester, Plaintiff received in the mail a Higher One debit card prominently emblazoned with the name and mascot of her educational institution.

55. The Higher One debit cards functioned not only as debit cards, but also as the students' campus ID cards, necessary to gain access to critical campus functions. Plaintiff's educational institution required students to receive these "Mustang" cards and use them for non-debit card functions, but did not actually require students to use them to receive their financial aid refunds, or to maintain OneAccount.

56. Plaintiff reasonably believed, in light of this deceptive co-branding technique, that her school endorsed or required Higher One's checking account as the best, fastest, or only way to receive financial aid money.

57. The Higher One debit card came with Plaintiff's sensitive information stored on the card. Accompanying the card, a notice instructed Plaintiff to activate it in order to receive her financial aid benefits. The notice communicated that she would not receive her financial aid refund money immediately unless she activated the card.

58. Upon information and belief, prior to the beginning of a term, Plaintiff and

other Class Members received an email or other communication from Higher One which contained text substantially similar to the following:

> [Your college or university] has partnered with Higher One to deliver your refund. We are committed to delivering great customer services and providing you with clear choices—as well as quick, easy and secure access to your money.

59. In such communications, and by use of the term "partnered" among others, Higher One falsely represented to Plaintiff that the OneAccount was endorsed or required by her school as the only or best way to receive their financial aid funds.

60. Plaintiff chose to use the OneAccount because she believed use of the OneAccount was the only or best way to receive financial aid funds disbursed by her school, and that it was the disbursement method preferred by her school, and because she did not wish to experience a delay in receipt of her funds.

61. Federal regulations at all relevant times prohibited an institution of higher education from requiring use of a particular banking account for financial aid funds, and Plaintiff's college did not require or endorse use of the OneAccount.

62. Higher One did not adequately disclose that students may elect to receive their financial aid refund via methods other than a OneAccount. While it was disclosed that students had other options, exercising these options would have delayed students' access to much-needed funds. It was also not disclosed that declining to use a Higher One account was the surest method of avoiding Higher One's unusual and unconscionable fees. Because of Defendant's deceptive marketing and incomplete disclosures, the non-Higher One options appeared more burdensome and inefficient when compared to act of simply activating the Higher One debit card and accessing an automatically-created and (unbeknownst to Plaintiffs) fee-laden OneAccount.

63. Each non-Higher One ATM Fee, PIN-Transaction Fee, and Overdraft Fee

discussed below was incurred as a result of this initial deception, and would not have been incurred otherwise.

Higher One Deceptively Discouraged Plaintiff From Opting Out of the Higher One Accounts By Threatening Delayed Access to Financial Aid Money If Plaintiff Used Options Other Than Higher One

64. Plaintiff was deceptively encouraged to use the Higher One website in order to receive the financial aid refunds to which she was entitled. The site was co-branded with Plaintiff's school's logos, creating a false impression that Higher One was the school's preferred or required financial aid disbursement and checking account provider.

65. Plaintiff did not opt out of the default option in part because Defendants would have delayed access to her much-needed financial aid money if Plaintiff had chosen other options.

66. However, as discussed below, a refund would be "delayed" only because Defendants designed their disbursement system to make other disbursement options more time-consuming.

67. Plaintiff was provided three ostensible options for a financial aid distribution, but Defendants presented all non-Higher One options as disadvantageous or burdensome. One option was to remain in the Higher One default and receive money immediately. Another option was for a "direct deposit," which was not "direct" at all, but actually required a student to print out a paper form, fill it out, and mail it in to Higher One. Upon information and belief, this option takes approximately one week for a student to receive funds. The final option was to receive a paper check, in which case students' financial aid funds would be held by Higher One, and delayed to Plaintiffs, for 21 days.

68. For the abovementioned reasons, disbursement options other than the default OneAccount were not presented equally, neutrally, or even accurately.

69. Because financial aid recipients depend on their financial aid money, Defendants effectively coerced students to remain in the default option and use OneAccounts in order to have immediate access to their funds.

70. Plaintiff needed her financial aid money quickly. It was unconscionable, deceptive, and unfair for Defendant to hold her financial aid funds hostage for a period of time unless she used a OneAccount for disbursement.

Defendants Purposely Made It Difficult for Plaintiff to Opt-Out of the Higher One Account by Foreclosing Other Banking Options

71. As discussed above, Higher One did not allow Plaintiff to choose their electronic disbursement options without undue bias and pressure.

72. Defendants did not provide an immediate electronic online option for Plaintiff to deposit her financial aid refunds in another bank of her choosing. However, in other contexts, immediate direct deposit options are routinely available. Upon information and belief, Defendants could have done so here, but did not provide such an option in order to dis-incentivize students from choosing other banking options.

73. On the "refund choices" section of Higher One website, Higher One did not disclose that it would mail a paper check to Plaintiffs in 21 days, containing the refund to which they were entitled, if they took no action at all.[4]

74. Had immediate online direct deposit or immediately-mailed paper check been available as an option, Plaintiff could have and would have used one of those options to receive her financial aid funds—and she would have avoided the unconscionable and unusual fees at least one Defendant charges, as discussed herein.

75. These policies violate DOE regulations, including, *inter alia*, 34 C.F.R.

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[4] *See* https://web.archive.org/web/20141223042704/http://www.myonemoney.com/refundchoiceseleconly (Wayback Machine internet archive, Higher One website archive Dec. 23, 2014).

§ 668.164(c)(3), which states:

> An institution may establish a policy requiring its students to provide bank account information or open an account at a bank of their choosing as long as this policy does not delay the disbursement [of financial aid funds].

(emphasis added).

76. A student who designates non-Higher One bank account information suffers a delay in receiving funds, in violation of the above- referenced regulation.

77. Defendants' tactics have been good business. Most students whose funds are initially held by Higher One end up using OneAccounts.

78. In short, Higher One has leveraged its relationship with colleges and universities to make itself the *de facto* choice for banking on these campuses.

79. It has exploited this advantage to charge students unconscionable and unusual bank fees. Each of the fees incurred by Plaintiff and other Class Members could not and would not have been charged if Higher One had not used its improper, misleading, and coercive tactics to steer students into its fee-laden accounts.

Higher One Provided Deceptive Account Disclosures To Plaintiff and Did Not Adequately Disclose The Unconscionable and Unusual Fees Associated with the Accounts

80. Higher One did not make fee information easily accessible to Plaintiffs. The OneAccount was described on the website as "free," leading students to believe that they need not worry about unusual and unconscionable fees. The fee schedule was not prominently available from the sign-up screen; instead, it could only be accessed prior to agreeing to use Higher One if students navigated to a different section of the website.

81. Higher One did not adequately disclose the unconscionable and unusual fees it charges (or Plaintiff's inability to reasonably avoid these fees, as discussed below) prior to coercing Plaintiff to agree to use a OneAccount on the Higher One website.

Higher One Provided an Extremely Limited Number of "In-Network" ATMs, Which Were Only Available During Limited Hours, Thus Forcing Students to Incur Non-Higher One ATM Fees.

82. Higher One charged a $2.50 fee every time Plaintiff used her Higher One debit card to withdraw funds from a non-Higher One ATM. This fee came in addition to any fees charged by the owners of the ATMs.

83. These fees were practically unavoidable because Higher One provided an extremely limited number of "in-network" ATMs. Consistent with the situation of other Class Members, Plaintiff's campus had only two "in-network" Higher One ATMs. They were in campus buildings that closed every evening, meaning that it was practically unavoidable to incur substantial fees, as she in fact did.

84. Higher One exploited the limited number of available "in-network" ATMs in order to profit from these fees.

85. The failure of Higher One to provide adequate fee-free ATM access to Plaintiffs violates the public policy of the U.S., including 34 C.F.R. 668.164(c)(3)(v), which provides that an institution must ensure that students have convenient access to ATMs or a branch office of the bank in which the account was opened.

86. Higher One did not adequately disclose the fact of this extremely limited access to Higher One ATMs to Plaintiff when she was forced to choose whether to opt-out of a Higher One account.

87. Absent Higher One's deceptive marketing, Plaintiff would have chosen to receive her refund through a bank that did not charge these unconscionably and outrageous fees.

Higher One Misled Plaintiff Into Incurring "PIN-Based Transaction Fees" By Labeling Its Cards Debit Cards

88. A Higher One debit card can be used to make a purchase in two ways: (1) an

Automated Clearing House ("ACH") or "debit" transaction, in which a customer enters his/her PIN number at the point of sale; or (2) a "signature" or "credit" transaction, in which the debit card is treated like a credit card and the customer is usually required to sign a receipt. A user selects the option of "debit" to use the card in an ACH transaction, or selects the term "credit" to use the card in an "offline signature" transaction.

89. The Higher One debit cards issued to Plaintiff and Class Members were emblazoned with the word "debit" and were consistently referred to as debit cards.

90. The Higher One Cards were, in fact, debit cards, but they had to be charged as if they were credit cards in order to avoid PIN-Based Transaction Fees.

91. Each time Plaintiff swiped the card as a "debit" and entered her PIN, she was charged a 50-cent PIN-Based Transaction Fee by Higher One.

92. Higher One did not adequately disclose or explain this unintuitive fact to Plaintiff, and misled Plaintiff by placing the term "debit" on the card, causing Plaintiff to charge the cards as "debit" cards, and therefore incur PIN-Based Transaction Fees.

93. Some merchants do not offer the choice of selecting the "credit" option.

94. Some merchants make it difficult to find the "credit" option at terminals. For example, many merchants make the "debit" option a default, meaning that Plaintiff would have had to press "cancel" at the point of sale terminal and re-select a "credit" option in order to avoid a PIN-Based Transaction Fee.

95. Some merchants discourage using the "credit" option, or only permit it when the purchase exceeds a certain amount.

96. Plaintiff incurred PIN-based Transaction Fees because she was not aware she had to use the Higher One card as a "credit" card at the point of sale, or because there was no

option to select "credit" at the merchant, or for both reasons. Plaintiff could not reasonably avoid the assessment of the PIN- Based Transaction Fees.

97. Charging PIN-Based Transaction Fees is highly unusual, making it difficult for Plaintiff to understand, foresee, and avoid the fee.

98. Higher One knew that by pressuring students into using its accounts through deceptive marketing tactics, and labeling its cards "debit" cards, it would profit from PIN-Based Transaction Fees, due to consumers' confusion concerning how to avoid the fees, and the difficulty and inconvenience of avoiding such fees.

Defendants Violate Federal Public Policy Promulgated in the Higher Education Act, DOE Regulations, EFTA and Regulation E

99. Defendants charged students for access to their financial aid funds, in violation of DOE regulations, including 34 C.F.R. 664.164(c)(3)(iv), which required during the relevant time that regardless of how students receive their financial aid funds, an entity is prohibited from charging a fee for delivering those funds.

100. The public policy of the United States makes clear that students must have a clear and fair choice on how to receive their financial aid funds.

101. DOE rules mandate that students must have the choice of how to receive their financial aid funds. If an educational institution opens a bank or prepaid card account on behalf of a student or parent, it must, among other requirements, "obtain in writing affirmative consent from the student or parent to open that account." 34 C.F.R. § 668.14(c)(3)(i).

102. During all relevant times, Defendants violated this regulation and act contrary to the public policy of the United States because they did not obtain adequate and informed authorization from students prior to "defaulting" them into OneAccounts pre-opened for them.

Further, a college or university sends funds to at least one Defendant prior to any consent by student. And Higher One sends a pre-printed, unique debit card to students with account information and sensitive personal information already stored on it.

103. DOE guidance required at all relevant times that all information required for an authorization "must be conspicuous," Federal Student Aid Handbook (September 2011), Vol. 4 Ch. 1, at 4-7, and must be provided before an account is opened. 34 CFR 668.164(c)(3).

104. Higher One violated DOE guidance set forth in Dear Colleague Letter GEN-12-08 and in 34 C.F.R. 668.25, which state that a student must be informed "before the account associated with the card is opened of the terms and conditions of the card or other instrument, including any fees and other costs associated with the account" and should also "disclose how many surcharge-free ATM's are on their campus, their location, the hours that they are accessible to patrons, and, if available, a hyperlink to an ATM locator for their affiliated networks". As discussed above, Higher One did not adequately inform Plaintiff of the terms, conditions, and fees associated with the OneAccount, and separately, failed to inform Plaintiff of the extremely limited number of in-network ATMs available for use.

105. Further, public policy clearly contemplates the use of federal financial aid funds only for authorized educational purposes. Defendants are in the business of distributing financial aid funds, yet they have ignored this policy.

106. Higher One did not make account terms and conditions "conspicuous," Federal Student Aid Handbook (September 2011), Vol. 4 Ch. 1, at 4-7. As discussed above, Higher One did not make the fee schedule reasonably available, nor does it inform students that its "in-network" ATM system is extremely limited.

107. The DOE has made it clear that "a school may not require or coerce the student

or parent to provide an authorization . . . ." 34 C.F.R. § 668.165 (emphasis added).

108. By delaying access to financial aid funds for students who opt-out of the OneAccount, Defendants coerced students to provide an "authorization" to use the OneAccount, in violation of the public policy of the United States.

109. According to 34 C.F.R. 668.25, third party servicers like Defendants must "[c]omply with all statutory provisions of or applicable to Title IV of the HEA…including the requirement to use any funds that the servicer administers under any Title IV, HEA program and any interest or other earnings thereon solely for the purposes specified in and in accordance with that program."

110. Therefore, the regulation places a special burden on third party servicers to comply with rules regarding treatment of federal financial aid funds, which are not to be used for bank fees. Defendants ignored these special requirements and knowingly commandeered students' federal financial aid monies to pay bank fees.

111. In addition, the Electronic Funds Transfer Act ("EFTA"), and its implementing Regulation E, provide: "No person may . . . require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a government benefit", 15 U.S.C. § 1693k(2); *see also* Regulation E, 12 C.F.R. § 205.10(e). Federal financial aid funds are a "government benefit" that Defendants required students to use Higher One services to access, and Defendants therefore violated the EFTA.

112. As discussed above, Defendants pre-opened accounts for students—whether or not they ultimately agreed to use Higher One.

113. Plaintiff and other Class Members needed expedient access to their financial aid funds, not the delayed access that Higher One provided to students who opted out of

OneAccounts.

114. Defendants violated the EFTA even though they purported to provide an opt-out from the OneAccount.

115. Therefore, Defendants conditioned students' access to federal financial aid funds on use of a OneAccount, in violation of the public policy of the United States.

Defendants' Unconscionable Policies and Provisions

116. Defendants' policies and practices were unconscionable in the following respects, among others:

a. Defendants automatically pre-opened OneAccounts on behalf of students and deposited financial aid money into such accounts without authorization;

b. Higher One aggressively marketed directly to students, even before matriculation, and without students' consent;

c. Higher One sent a co-branded debit card to students, representing that Higher One was endorsed by, or was the preferred banking "partner" of, a student's college or university, or that use of the OneAccount was necessary to promptly receive financial aid monies;

d. Higher One provided students with a Higher One "debit" card, but required that the card be used as a "credit" card to avoid PIN-Based Transaction Fees;

e. Higher One pressured students not to opt-out of their OneAccounts without adequately disclosing the true nature of those accounts, including unconscionable and unusual usage fees;

f. Defendants intentionally made it difficult for students to opt out of the OneAccount by failing to provide a simple electronic "direct deposit" option and by delaying access to financial aid monies for students who choose to use other banking providers;

g. Defendants did not provide means by which students can reasonably avoid PIN Transaction Fees;

h. Higher One did not adequately disclose non-Higher One ATM Transaction Fees;

i. Defendants did not provide means by which students could reasonably avoid non-Higher One ATM Transaction Fees;

j. Defendants did not adequately alert or communicate to their customers that a debit card transaction or ATM transaction would trigger a PIN-Based Transaction Fee and/or a non-Higher One ATM Fee, and did not provide the customer the opportunity to cancel that transaction, before assessing such fees;

k. Defendants turned accounts into which financial aid disbursement was made into accounts with credit features by approving overdraft transactions and charging Overdraft Fees;

l. Defendants forced students to use financial aid loan money to pay bank fees, which increased the cost of such bank fees over time due to interest, and was in violation of federal public policy; and

m. Defendants violated DOE regulations and guidance.

The Damages Sustained by Plaintiff and Class Members

117. As a consequence of Defendants' policies and practices, Plaintiff and Class Members have been wrongfully forced to use OneAccounts and pay unconscionable, unusual, and deceptive bank fees. Defendants have improperly deprived Plaintiffs and Class Members of significant funds, causing ascertainable monetary losses and damages.

118. Because many of these improperly charged fees were paid with borrowed money, some students are effectively paying interest on these fees.

FIRST CLAIM FOR RELIEF
Violations of Pennsylvania Unfair Trade Practices and Consumer Protection Law
(On Behalf of the Pennsylvania State Subclass)

119. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

120. This claim is asserted on behalf of the members of the Pennsylvania State Subclass.

121. Defendants intentionally misled Plaintiff to believe that her educational institution required or endorsed her use of a OneAccount, and further misrepresented that using a OneAccount was "free." These misrepresentations were made in Defendants' marketing communications to Plaintiff sent before she activated her OneAccount, including the card itself which was emblazoned with her college's name and mascot.

122. Defendants intentionally devised a system to coerce Plaintiff into using a OneAccount by delaying access to her financial aid funds unless she used a OneAccount.

123. Defendants intentionally caused Plaintiff to incur out-of-network ATM fees and PIN transaction fees by making it confusing or impossible to avoid these fees.

124. Defendants knew that their tactics were fraudulent and deceptive because Higher One had already been sanctioned by the Federal Reserve and FDIC when it used its tactics on Plaintiff and Class Members.

125. Defendants engaged in unfair business practices relating to the non-consensual creation of bank accounts for disbursement of financial aid and imposition of bank fees on consumers, in violation of the Pennsylvania Unfair Trade Practices and Consumer Protection

Law, 73 P.S. §§ 201-1, *et seq.*

126. Without limitation, Defendants violated 73 P.S. §§ 201-2 (4)(ii), (iii), and (v), and (xxi) by representing that their services had the sponsorship or approval of students' institutions of higher education, which they did not.

127. Without limitation, Defendants violated 73 P.S. §§ 201-2 (4)(xxi) by misleading customers into believing that OneAccounts were the best, fastest, or only way to receive financial aid refunds, by facilitating a system that delayed refunds to students who opted out of a OneAccount, by charging unconscionable and unusual fees, and by failing to adequately disclose those fees.

128. As redress for Defendants' violations of these consumer protection statutes, Plaintiff and the State Subclass is entitled to, inter alia, damages and declaratory relief.

SECOND CLAIM FOR RELIEF
Rescission
(On Behalf of All Classes)

129. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

130. Consent by Plaintiff to the terms of Higher One's Account Agreement and Fee Schedule was not real or free, and was given under mistake or fraud.

131. By, inter alia, using an unconscionable system of coercing students into a Higher One bank account, making an opt-out from that option difficult, confusing, and time-consuming, concealing the true costs of the OneAccounts, Higher One improperly induced Plaintiffs to contract.

132. In addition, Higher One induced Plaintiff to enter into the Account Agreement because she was deceived into believing that Higher One was preferred or required by their

college or university for receipt of financial aid monies.

133. Higher One was not the preferred or required provider. Indeed, federal regulations prohibit a university or college from requiring use of a particular bank account in order to receive financial aid monies.

134. Plaintiff was induced to contract with Higher One because she was required to use their OneAccount in order to avoid delayed access to her much-needed financial aid funds.

135. Plaintiff believed the only way to receive her financial aid money in a timely fashion was to use the default OneAccount.

136. Plaintiff was induced to enter into the Account Agreement because Higher One concealed the true costs associated with the account, including the extremely limited number of "in-network" ATMs and the difficulty of avoiding PIN-based transaction fees.

137. In addition, Higher One has made representations it knew or reasonably should have known were false and deceptive.

138. With their consent to the contract given only under mistake or fraud, as described above, Plaintiff and Class Members seek rescission of their contracts with Higher One and restitution for all bank fees charged by Higher One.

THIRD CLAIM FOR RELIEF
Conversion
(On Behalf of All Classes)

139. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein.

140. Defendants had a duty to maintain and preserve their customers' financial aid funds and to prevent their diminishment through their own wrongful acts.

141. By placing students' financial aid funds into OneAccounts without students'

consent, by defaulting students into OneAccounts, by making it difficult for students to opt-out of this default, and by charging the bank fees specified herein, Defendants have, without proper authorization, assumed and exercised the right of ownership over these funds, violating the rights of Plaintiff and the members of the Classes, without legal justification.

142. Defendants have wrongfully collected PIN-Based Transaction Fees, and non-Higher One ATM Fees from Plaintiff and the members of the Classes, and have taken specific and readily identifiable funds from their accounts in payment of such fees to satisfy them.

143. Defendants have, without proper authorization, assumed and exercised the right of ownership over these funds, in hostility to the rights of Plaintiff and the members of the Classes, without legal justification.

144. Defendants continue to retain these funds unlawfully and without Plaintiff or Class Members' consent.

145. Defendants intend to permanently deprive Plaintiff and Class Members of these funds.

146. These funds are properly owned by Plaintiff and the members of the Classes, not Defendants, who now claim that they are entitled to their ownership.

147. Plaintiff and Class Members are entitled to the immediate possession of these funds.

148. Defendants have wrongfully converted these specific and readily identifiable funds.

149. As a direct and proximate result of this wrongful conversion, Plaintiff and Class Members have suffered damages.

150. By reason of the foregoing, Plaintiff and Class Members are entitled to recover

from Defendants all damages and costs permitted by law, including all amounts that Defendants have wrongfully converted.

FOURTH CLAIM FOR RELIEF
Unjust Enrichment
(On Behalf of All Classes) (in the alternative)

151. Plaintiff repeats and realleges the preceding and subsequent paragraphs as though set forth herein, excepting any paragraphs which allege the existence of a valid contract.

152. By means of Defendants' wrongful conduct alleged herein, Defendants knowingly provided banking services to Plaintiff and members of the Classes that are and/or were unfair, unconscionable, and oppressive.

153. Defendants knowingly received and retained wrongful benefits and funds from Plaintiff and members of the Classes. In so doing, Defendants acted with conscious disregard for the rights of Plaintiff and Class Members.

154. As a result of Defendants' wrongful conduct as alleged herein, Defendants have been unjustly enriched at the expense of, and to the detriment of, Plaintiff and Class Members.

155. Defendants' unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

156. Under the common law doctrine of unjust enrichment, it is inequitable for Defendants to be permitted to retain the benefits they received, without justification, from the imposition of PIN-Based Transaction Fees and non-Higher One ATM Fees on Plaintiffs and members of the Classes in an unfair, unconscionable, and oppressive manner. Defendants' retention of such funds under circumstances making it inequitable to do so constitutes unjust enrichment.

157. The financial benefits Defendants derived rightfully belong to Plaintiff and members of the Classes. Defendants should be compelled to disgorge in a common fund, for the benefit of Plaintiffs and members of the Classes, all wrongful or inequitable proceeds Defendants received. A constructive trust should be imposed upon all wrongful or inequitable sums Defendants received traceable to Plaintiffs and Class Members.

158. Plaintiffs and members of the Classes have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff and the Class Members demand a jury trial on all claims so triable and judgment as follows:

1. Declaring Defendants' policies and practices to be wrongful, unfair, and unconscionable;

2. Permanently enjoining Defendants from continuing their unfair, fraudulent, wrongful, and deceptive acts alleged herein;

3. Restitution of all PIN-Based Transaction Fees, non-Higher One ATM Fees, and overdraft fees paid to Defendants by Plaintiffs and the Classes, as a result of the wrongs alleged herein, in an amount to be determined at trial;

4. Disgorgement of the ill-gotten gains derived by Defendants from their misconduct;

5. Establishment of a constructive trust over all of the proceeds in Defendants' possession belonging to the Plaintiff and Class Members;

6. Actual damages, in an amount according to proof, of at least Five Million Dollars ($5,000,000.00), excluding interest and attorneys' fees;

7. Punitive and exemplary damages;

8. Penalties authorized by the consumer protection laws of Pennsylvania;

9. Attorneys' fees;

10. Damages and other relief pursuant to the Electronic Funds Transfer Act;

11. Pre-judgment and post-judgment interest at the maximum rate permitted by applicable law;

12. Costs and disbursements assessed to Plaintiff in connection with this action, including reasonable attorneys' fees pursuant to applicable law; and

13. Such other relief as this Court deems just and proper.

Date: April 13, 2017

By: ______________________

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EXHIBIT A

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of HIGHER ONE, INC., as an institution-affiliated party of WEX BANK MIDVALE, UTAH (INSURED STATE NONMEMBER BANK)	CONSENT ORDER, ORDER FOR RESTITUTION, AND ORDER TO PAY CIVIL MONEY PENALTY FDIC-15-0129b FDIC-15-0130k

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for Higher One, Inc. ("Higher One"), an institution-affiliated party ("IAP") of WEX Bank, Midvale, Utah ("the Bank"), under sections 3(q) and 3(u) of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. § 1813(q) and 1813(u).

The FDIC determined that Higher One engaged in deceptive acts or practices in or affecting commerce, in violation of section 5 of the Federal Trade Commission Act ("Section 5"), 15 U.S.C. § 45(a)(1), arising from the marketing to and enrollment of consumers into the OneAccount product offered through the Bank.

Higher One, by and through its duly elected and acting Board of Directors ("Board"), has executed a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER, ORDER FOR RESTITUTION, AND ORDER TO PAY CIVIL MONEY PENALTY ("CONSENT AGREEMENT"), dated December 18, 2015, which is accepted by the FDIC. With the CONSENT AGREEMENT, Higher One has consented, without admitting or denying any charges of violations of law or regulation, to the issuance of this CONSENT ORDER, ORDER FOR RESTITUTION, AND ORDER TO PAY CIVIL MONEY PENALTY (collectively "ORDER") by the FDIC.

FINDINGS OF FACT

The FDIC finds the following facts:

(1) Colleges and universities (hereinafter referred to as "schools") often need to disburse financial aid refunds to students. Many types of financial aid funds are initially distributed in full to the school, which then deducts the student's tuition and other amounts payable to the school. Any remaining amount is known as a "refund." Schools are responsible for distributing refunds to the students, typically by paper check or Automated Clearing House ("ACH") transfer to a student's bank account.

(2) In 2000, Higher One created the "OneDisburse" service (also known as the "Refund Management" service), whereby schools could outsource the financial aid refund disbursement process, resulting in time- and cost-savings for the schools. Higher One offers students three methods of receiving their financial aid refund: (a) direct deposit to the Higher One deposit account and student debit card product known as the "OneAccount" (which was marketed at several product levels, including the OneAccount, OneAccount Flex, OneAccount Edge, and OneAccount Premier); (b) ACH transfer to another bank account; or (c) paper check, if permitted by the school.

(3) Because Higher One is not an insured depository institution, as that term is defined in section 3(c)(2) of the FDI Act (12 U.S.C. § 1813(c)(2)), Higher One contracts with insured depository institutions to establish and maintain the OneAccounts. From May 4, 2012 through the Effective Date (defined herein), WEX Bank provided demand deposit accounts in

connection with OneAccounts.

(4) Through this business model, Higher One and the Bank controlled students' access to and information about financial aid refund disbursement options because students were required by their schools to use the Higher One website to select the method of the financial aid refund disbursement, or wait at least two weeks to receive a refund check by default, as required by Department of Education regulations.

(5) Higher One benefitted from students directing their financial aid refunds to the OneAccount instead of to an alternative bank account or paper check. Higher One earned income from all fees paid by students in connection with the accounts. These fees included the following: (a) cash advance fees (*i.e.,* bank teller withdrawal); (b) merchant PIN-based debit transaction fees; (c) non-Higher One ATM transaction fees; (d) delinquent account (an account with insufficient funds in excess of a grace period) fees; (e) GreenDot cash deposit fees; (f) abandoned account (an account that has not been accessed by the consumer in excess of a grace period) fees; (g) lack of documentation fees; and (h) improperly disclosed uncategorized fees. In addition, Higher One received (a) interchange fees paid by merchants to issuing banks in connection with the debit card linked to the OneAccount; and (b) fees, charges, and interchange income generated by its ATMs and from its payment processing services.

(6) During the period beginning May 4, 2012 through December 19, 2013 (the "Relevant Period"), the Higher One website and associated materials used for selecting the disbursement method for refunds contained material omissions about certain fees, features, and limitations of the OneAccount, which were likely to mislead students acting reasonably under the circumstances. Information about certain fees, features, and limitations of the OneAccount was omitted entirely or was not clear and conspicuous. Examples that were in effect during all or

part of the Relevant Period included, but are not limited to the following:

(a) Each of the webpages in the enrollment process featured the students' school logos more prominently than either the Higher One logo or any references to the Bank.

(b) There was no information on the refund disbursement home page – the first webpage that would appear when a student started the disbursement selection process for the first time – about the ACH transfer to another bank account and paper check options, either of which may have enabled students to access their student financial aid refunds with fewer fees.

(c) On the web page where the student made a choice about the method of refund disbursement, information about the speed of receiving a refund through the OneAccount was displayed prominently, while information about certain fees, features, and limitations of the OneAccount was missing on that page, making it difficult for students to make a fully informed decision prior to selecting the method for financial aid disbursement.

(d) Information about the availability of fee-free ATM locations was not available on the web page where the student made a choice about the method of refund disbursement. While Higher One generally provided at least one fee-free ATM on each campus, some fee-free ATMs were on campus locations that were closed on nights, weekends, and holidays. Similarly, the website did not contain information notifying the student that the OneAccount was an Internet-only checking account.

(e) It was only after the student selected a refund delivery mechanism and entered all personal information that a complete fee schedule and the terms and conditions were readily available for the student to view. While the fee schedule contained information about ATM fees for using non-Higher One ATMs, the student had to click on another link to find information about fee-free ATM locations. If the student wanted to change his or her choice of refund delivery mechanism before opening the account, the student had to click back through previous screens to reach the appropriate web page and resubmit all personal information.

(7) The violations described above resulted in deceptive acts or practices in or affecting commerce, within the meaning of Section 5, and unsafe or unsound banking practices.

(8) During the Relevant Period, nearly 978,500 new OneAccounts were opened at the Bank and more than 755,000 of these accounts were assessed at least one of the fees described in the Order for Restitution.

(9) On July 15, 2014, Higher One provided by electronic mail (or USPS mail, if necessary) the following information to existing customers who had opened OneAccounts during the Relevant Period: information about ACH transfer and paper check options for receipt of financial aid refunds; a copy of the Fee Schedule and Terms and Conditions; a description of the account closing procedures; and also provided fee waivers for certain foreign ATM, debit card, and cash transactions for a 30-day period.

DEFINITIONS

For purposes of this ORDER, the following definitions shall apply:

1. "Board" shall mean Higher One's duly elected and acting Board of Directors.

2. "Effective Date" shall mean the date on which this ORDER is issued.

3. "Regional Director" shall mean the FDIC Regional Director for the San Francisco Region.

4. "WEX Bank Order" shall mean, collectively, the Consent Order, Order for Restitution, and Order to Pay Civil Money Penalty issued by the FDIC on December 23, 2015.

Having determined that the requirements for issuance of an order under sections 8(b) and 8(i)(2) of the FDI Act, 12 U.S.C. §§ 1818(b) and 1818(i)(2), have been satisfied, the FDIC hereby issues the following ORDER:

CONSENT ORDER

IT IS HEREBY ORDERED that Higher One, as an IAP of the Bank, cease and desist from engaging in unsafe or unsound banking practices and violations of law and/or regulations described in this ORDER.

IT IS FURTHER ORDERED that Higher One shall take the following affirmative actions:

Correct Violations of Law

5. Within 60 days of the Effective Date, Higher One shall continue to correct all violations of law, as described in the FDIC's Visitation Letter as of November 3, 2014 and in the WEX Bank Order, and implement procedures to prevent their recurrence in connection with the OneAccount or any student financial aid-related consumer deposit or lending product or service that is or may be offered when Higher One in acting as an IAP for the Bank or any "insured depository institution" for which the FDIC is the "appropriate Federal banking agency" as those terms are defined in 12 U.S.C. §§ 1813(c)(2) & (q) (collectively "Products or Services"). Higher One's actions as required by this paragraph shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

Deceptive Acts and Practices

6. Higher One shall take all action necessary to eliminate any violations of Section 5 and maintain future compliance with Section 5. Higher One, whether acting directly or through third parties, shall not make, or allow to be made, any deceptive representations, statements, or

omissions, expressly or by implication, in any marketing materials, telemarketing scripts, sales presentations, and/or websites used to solicit any consumer or in any similar communications to open a Product or Service. Additionally, Higher One shall take all action necessary to ensure that all material information needed by a consumer to make an informed decision about the method of receiving a financial aid refund is provided in advance of a consumer making such decision and that all representations are substantiated. Without limiting the generality of the foregoing, Higher One shall not make any misrepresentations and/or omissions of material facts related to:

(a) all options available to a consumer seeking disbursement of a financial aid refund;

(b) information about the fees, features and limitations of the Product or Service, including limitations on any type of cash deposits and withdrawals;

(c) information about Higher One ATM locations and hours of availability, including information on fees assessed by foreign ATMs used for access to financial aid refunds;

(d) for any Product or Service associated with financial aid refunds, whether the school endorses or prefers the Product or Service over other options for the consumers' receipt of the financial aid refund through another bank account by ACH transfer or by paper check; and

(e) the approximate timing of funds availability for alternative financial aid refund disbursement options.

7. Higher One shall ensure that initiating direct payments electronically to an existing account is as timely as, and no more onerous than, initiating direct payment through any

Product or Service offered as a depository account for financial aid refunds, including, but not limited to, the OneAccount.

8. Higher One shall ensure that paper checks, to the extent offered to students, are issued on the same day it receives a request from a consumer for a financial aid refund disbursement through a paper check, or if the request is received following business hours, the next business day.

9. Higher One, whether acting directly or through third parties, shall ensure that all marketing materials, telemarketing scripts, sales presentations, websites, and/or any similar communications used to solicit any consumer to open a Product or Service offered as a depository account for financial aid refunds, clearly discloses Higher One's name and the insured depository institution's name, including contact information for Higher One and the insured depository institution.

10. Higher One must clearly and conspicuously disclose to its consumers, prior to choosing a financial aid refund disbursement method, the locations and availability of its network of ATMs, and that the use of ATMs on other networks will result in foreign ATM fees.

Board and Senior Management Oversight

11. The Board and Senior Management shall participate fully in the oversight of Higher One's Compliance Management System ("CMS") with respect to Products or Services, and shall be responsible for:

(a) the approval of sound policies and objectives;

(b) ensuring an adequate compliance program is in place that addresses all consumer compliance risks associated with Products or Services; and

(c) the effective supervision of all of Higher One's compliance-related activities with respect to Products or Services, including activities conducted by third parties on behalf of Higher One, consistent with the role and expertise commonly expected for directors of companies of comparable size and complexity and offering comparable products and services.

Compliance Management System

12. Within 90 days from the Effective Date, Higher One shall conduct a review of its CMS as it pertains to Products or Services, including changes implemented as a result of prior supervisory actions. Based on the review, Higher One shall revise, develop, and/or implement, as necessary, a sound risk-based CMS, including revising, as necessary, its comprehensive written compliance program ("Compliance Program"), to ensure that all Products or Services offered by Higher One comply with Section 5 and all applicable consumer protection laws, implementing rules and regulations, regulatory guidance, and statements of policy (collectively "Consumer Protection Laws").

13. Higher One shall ensure that its Compliance Program with respect to Products or Services, at a minimum, includes comprehensive written policies and procedures, including detailed operating procedures and controls, designed to prevent violations of Consumer Protection Laws and the associated risks of harm to consumers, including Section 5. Higher One's policies and procedures shall also provide guidance for the following:

(a) an effective training program that addresses compliance with Consumer Protection Laws and includes regular, specific, comprehensive training of the Board, senior management, staff, third-party staff, and all individuals having responsibilities that relate to Consumer Protection Laws. The training shall be commensurate with individual job functions and duties for appropriate staff, be specific to the products and services offered by Higher One, and incorporate training for all high-risk compliance areas, including Section 5;

(b) an enhanced, well-documented, and proactive internal monitoring process, incorporated into the daily work of company personnel, that is designed to detect and promptly correct CMS weaknesses within the company, particularly weaknesses that have an impact on consumer accounts. The monitoring processes and procedures should include, without limitation, the following:

i. review and approval by Higher One and, as applicable, by the Bank or any other insured depository institution of (a) all marketing, advertising, and solicitation materials, including direct mail, promotional materials, telemarketing scripts, and website content; (b) other materials provided to customers or potential customers generated in connection with the marketing, administration, and servicing of such Product or Service, including agreements, privacy policies, and statements; and (c) any material changes or amendments thereto; and maintenance of copies of the above-derived materials by Higher One;

ii. timely and regular notification by Higher One to, as applicable, the Bank or any other insured depository institution, inquiries or legal actions and any legal action commenced by any customer or potential customer;

iii. review and approval by Higher One and, as applicable, the Bank or other insured depository institutions, of all materials related to policies and procedures concerning customer service, monitoring of customer service calls on a regular basis; and

iv. regular, quarterly meetings between Higher One and, as applicable, the Bank or any other insured depository institution;

(c) an effective consumer complaint monitoring process that includes procedures for promptly addressing and resolving all written, oral, or electronic complaints or inquiries, formal or informal, received by Higher One, monitoring of such complaints, analyzing and identifying any trends concerning the nature of such complaints, promptly addressing any root causes of such complaints, and documenting and tracking all complaints and inquiries through resolution; promptly notifying the Bank or any other insured depository institution, as applicable, of regulatory agencies' inquiries, customer complaint correspondence from all sources of complaints, including social media and internet-based complaints, or legal action received, in each case related to a Product or Service; and

(d) an effective, independent audit of the Compliance Program and Higher One's compliance operations with respect to Products or Services offered, to ensure compliance with all Consumer Protection Laws and internal policies and procedures. Audits shall be conducted at least annually and conducted by qualified personnel with experience in conducting independent audits of compliance programs to ensure compliance with all Consumer Protection Laws. The audits will assess Higher One's CMS and Compliance Program with respect to Products or Services and at a minimum, shall:

i. define a comprehensive scope to include appropriate aspects of each law or regulation based on a risk analysis;

ii. identify the number of transactions sampled by category or product type;

iii. identify deficiencies;

iv. provide descriptions of, or suggestions for, corrective actions and timeframes for correction; and

v. establish follow-up procedures to verify that corrective actions are implemented and effective.

Audit findings, deficiencies and recommendations must be documented in a written report and provided to the Risk and Compliance Committee of the Board within 15 days after completion of the independent audit. In addition, the audit report should be thoroughly reviewed by the Board and fully documented in the Board's minutes.

14. Prior to implementation, the Board shall review the revised written Compliance Program and/or any subsequent modification thereto and, finding it acceptable, the Board shall approve it and record the approval in the Board minutes.

ORDER FOR RESTITUTION

IT IS FURTHER ORDERED that Higher One provide restitution to consumers as follows:

Segregated Account

15. Within 10 days from the Effective Date, Higher One shall deposit into a trust or otherwise segregated deposit account an amount not less than $31,000,000 for the purpose of providing restitution as required by the ORDER ("Segregated Account"). The Bank may contribute funds to the Segregated Account. If the Segregated Account is set up as a qualified settlement fund, pursuant to section 1.468B-1, *et seq.*, of the Treasury Regulations, promulgated under section 468B of the Internal Revenue Code, Higher One shall ensure that the Segregated Account satisfies all the requirements of 26 C.F.R. § 1.468B-1. No disbursements shall be made out of the Segregated Account, except those made pursuant to the OneAccount Restitution Plan submitted to and not objected to by the Regional Director pursuant to the terms of this ORDER.

16. Higher One shall make all restitution payments required by the ORDER, regardless of whether the total of such payments exceeds the Segregated Account. If the total of payments is less than the Segregated Account, the excess shall be returned to Higher One's general funds or returned as agreed between Higher One and the Bank.

17. Restitution under this ORDER and the WEX Bank Order is intended to cover the same consumers without duplication of restitution payments. Higher One and the Bank may reach a separate agreement between them concerning the funding and distributing of restitution under this ORDER and the WEX Bank Order.

Restitution Plan

18. Within 60 days from the Effective Date, Higher One shall, in consultation with the Bank, prepare and submit to the Regional Director a comprehensive Restitution Plan for all OneAccount Holders ("OneAccount Restitution Plan").

19. "OneAccount Holder" shall mean any consumer who opened a OneAccount at WEX Bank to facilitate receipt of the consumer's financial aid refund from May 4, 2012 through December 19, 2013.

20. "Restitution Fees" shall mean any fee or penalty received from a OneAccount Holder as a result of (a) a cash advance (*i.e.,* bank teller withdrawal); (b) a merchant PIN-based debit transaction; (c) a non-Higher One ATM transaction; (d) a delinquent account (an account with insufficient funds in excess of a grace period); (e) a GreenDot cash deposit; (f) an abandoned account (an account that has not been accessed by the consumer in excess of a grace period); (g) a lack of documentation; or (h) an improperly disclosed uncategorized transaction.

21. The OneAccount Restitution Plan shall, at a minimum, require Higher One to provide restitution to OneAccount Holders who have incurred one or more of the Restitution

Fees ("Eligible Consumers"). The Restitution Fees shall be calculated for the period commencing May 4, 2012 through July15, 2014 ("Restitution Period"). The restitution shall be equal to all such fees charged to the Eligible Consumer's account during the Restitution Period.

22. Restitution provided by Higher One shall not limit consumers' rights in any way.

23. Restitution to Eligible Consumers of the Restitution Fees in accordance with this ORDER shall apply to all Eligible Consumers regardless of whether their OneAccounts are closed, charged-off, sold, or otherwise transferred. Higher One's restitution obligation for the Restitution Fees on each Eligible Consumer's OneAccount for the Restitution Period may be reduced to the extent any such Restitution Fee was previously credited in compromise of a claim to the respective OneAccount at Higher One's expense or paid to the respective Eligible Consumer by Higher One during the Restitution Period in compromise of a claim for such Restitution Fee by Higher One in favor of such Eligible Consumer to the extent Higher One provides appropriate documentation.

24. Except as provided below, payments of the Restitution Fees for the Restitution Period shall be made by credits to the OneAccounts of Eligible Consumers entitled to such credits. If, as of the date that restitution has been made pursuant to this ORDER, an Eligible Consumer's OneAccount has been closed, charged off, sold, or otherwise transferred, the amount of restitution to which the Eligible Consumer is entitled will be made by restitution check to the holder of the respective OneAccount.

25. Higher One shall submit to the Regional Director for review, comment, and non-objection prior to implementation, the OneAccount Restitution Plan, including samples of letters to consumers. The text of letters and/or electronic mail to be sent to Eligible Consumers shall include satisfactory language explaining the reason Higher One is sending a restitution payment,

including that Higher One is sending the payment, providing a statement credit, or a combination of the two. The letters and/or electronic mail shall also include reference to and the web addresses for any FDIC press releases related to the ORDER, and shall include a reference that the restitution payment does not, in any manner, limit a consumer's rights. The letters and/or electronic mail, incorporating any changes that may be required in response to comments by the Regional Director, shall be sent by United States Postal Service first-class mail and/or electronic mail to all Eligible Consumers entitled to receive restitution payments in accordance with the ORDER.

26. Within 60 days of receipt of non-objection from the Regional Director, Higher One shall implement the OneAccount Restitution Plan.

27. Within 30 days from the Effective Date, Higher One shall submit to the Regional Director, for review and non-objection, a proposed announcement to be prominently posted on Higher One's website that describes the ORDER and the restitution to be made by Higher One to Eligible Consumers. The announcement shall set forth procedures whereby consumers can check their eligibility for restitution from Higher One and can provide updated electronic mail and/or United States Postal Service mailing address information, via a toll-free number and via Higher One's website. The Regional Director shall notify Higher One in writing of any comments or non-objection to the proposed announcement. Higher One shall address any comments of the Regional Director, making such changes as may be required to the proposed announcement. Within 10 days of the Regional Director's written non-objection, the announcement shall be prominently and promptly posted by Higher One to its website without further changes.

28. Within 30 days from the Effective Date, Higher One shall send an announcement to all of Higher One's OneDisburse clients that describes the ORDER and the restitution to be made by Higher One to Eligible Consumers. Higher One will send a copy of the announcement to the Regional Director before it is sent to Higher One's OneDisburse clients.

Mailing Refunds

29. When Higher One makes cash restitution by certified or bank check made payable to an Eligible Consumer, Higher One shall send the certified or bank check by United States Postal Service first-class mail, address correction service requested, to the Eligible Consumer's last address as maintained in Higher One's records. Higher One shall make reasonable attempts to obtain a current address for any Eligible Consumer whose notification letter and/or restitution check is returned for any reason, using standard address search methodologies, and shall promptly re-mail all returned letters and/or restitution checks to current addresses, if any. If the certified or bank check for any Eligible Consumer is returned to Higher One after such second mailing by Higher One, or if a current mailing address cannot be identified using standard address search methodologies, Higher One shall retain the restitution amount of such Eligible Consumer for a period of 360 days from the date the restitution check was originally mailed, during which period such amount may be claimed by such Eligible Consumer upon appropriate proof of identity. After such time, these monies will be disposed of in accordance with the OneAccount Restitution Plan.

30. Higher One shall not undertake collection efforts in the same mailing as that containing any of the restitution checks and/or notification letters. Further, Higher One shall not condition, expressly or by implication, the provision of a credit or cash payment pursuant to this ORDER on the payment of any outstanding debt.

Recordkeeping

31. Higher One shall retain for seven years all records pertaining to the OneAccount Restitution Plan, including but not limited to: documentation of the processes and procedures used to determine Eligible Consumers; the names, contact, and account information of Eligible Consumers; any mailing records; and documentation that the appropriate restitution and equitable relief were made.

Independent Third-Party Auditor

32. Within 30 days from the Effective Date, Higher One shall hire an independent, third-party auditor that is acceptable to the Regional Director to audit Higher One's completion of the OneAccount Restitution Plan as set forth in the Order for Restitution.

33. Within 45 days of implementation of the OneAccount Restitution Plan, the independent, third-party auditor shall verify that:

(a) Higher One accurately identified the Eligible Consumers eligible for restitution pursuant to the OneAccount Restitution Plan required by this ORDER;

(b) Higher One accurately calculated the restitution amount for each Eligible Consumer pursuant to the OneAccount Restitution Plan required by this ORDER; and

(c) Higher One made the appropriate restitution payments to each Eligible Consumer as required by this ORDER.

34. Within 90 days of implementation of the OneAccount Restitution Plan, the independent, third-party auditor shall prepare a detailed written report describing the status of the OneAccount Restitution Plan and payment distribution and submit it to the Regional Director for review, comment, and non-objection, and shall continue to submit such additional interim reports until completion of the restitution required by this ORDER as directed by the Regional Director.

The independent auditor shall submit a final written report evaluating the processes and procedures by which Higher One determined and made the restitution, including the amounts of all restitution credits and refunds required by this Order. Restitution under this ORDER shall not be deemed complete until the Regional Director notifies Higher One, in writing, that refund requirements of the OneAccount Restitution Plan have been satisfied.

ORDER TO PAY CIVIL MONEY PENALTY

IT IS FURTHER ORDERED that by reason of the violations of law and/or regulations set forth herein, and after taking into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of Higher One, the gravity of the violations, the history of previous violations by Higher One, and such other matters as justice may require, including the severity of the risks to and losses of consumers, pursuant to 12 U.S.C. § 1818(i)(2), a civil money penalty of $2,231,250 is assessed against Higher One. Higher One shall pay such amount to the Treasury of the United States, as directed by the FDIC.

IT IS FURTHER ORDERED that Higher One is prohibited from seeking or accepting indemnification from any third party for the civil money penalty assessed and paid in this matter.

NOTIFICATION AND REPORTING REQUIREMENTS

Progress Reports and Shareholder Notification

35. On or before the 30th day after the end of the first full calendar quarter following the Effective Date, and on or before the 30th day after the end of every calendar quarter thereafter, Higher One shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof.

36. Within 30 days of the Effective Date, Higher One shall send to its shareholder, Higher One Holdings, Inc., a copy of this ORDER or a description of this ORDER. If Higher One sends its shareholder a description of this ORDER rather than a copy of it, the description shall fully describe this ORDER in all respects. The description and any accompanying communication, statement, or notice shall be sent to the FDIC, Accounting and Securities Section, Washington, D.C. 20429, at least 15 days prior to dissemination to the shareholder. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

SAVINGS CLAUSE

37. The provisions of the ORDER shall not bar, estop, or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against Higher One, its officers, directors, employees, or agents.

38. Calculation of time limitations for compliance with the terms of the ORDER shall be based on calendar days, unless otherwise noted.

39. Higher One shall make no representation to any insured depository institution, any consumer, or any other person or entity that the FDIC or any employee, agent, or representative of the FDIC has endorsed or approved any aspect of any Product or Service offered by Higher One.

40. The provisions of the ORDER shall be binding on Higher One, its officers, agents, servants, employees, and any successors and assigns thereof.

41. The provisions of the ORDER shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside in writing by the FDIC.

Issued pursuant to delegated authority this _23rd_ day of_December_, 2015.

/s/
Sylvia H. Plunkett
Senior Deputy Director
Division of Depositor and Consumer Protection

EXHIBIT B

2015 WL 9690754 (F.R.B.)

Board of Governors of the Federal Reserve System (F.R.B.)
Order

IN THE MATTER OF: HIGHER ONE, INCORPORATED NEW HAVEN, CONNECTICUT AN INSTITUTION-AFFILIATED PARTY OF CUSTOMERS BANK, PHOENIXVILLE, PENNSYLVANIA A STATE MEMBER BANK; AND A FORMER INSTITUTION-AFFILIATED PARTY OF COLE TAYLOR BANK CHICAGO, ILLINOIS A FORMER STATE MEMBER BANK

Docket No. 15-026-E-I
15-026-CMP-I
December 23, 2015

Order to Cease and Desist and Order of Assessment of Civil Money Penalty
Issued Upon Consent Pursuant to the Federal Deposit Insurance Act, as Amended

*1 WHEREAS, in recognition of the common goals of the Board of Governors of the Federal Reserve System ("Board of Governors") and Higher One, Incorporated, New Haven, Connecticut ("Higher One"), an institution-affiliated party, under sections 3(q) and 3(u) of the Federal Deposit Insurance Act, as amended (the ""FDI Act") (12 U.S.C. §§ 1813(q) and (u)) of Customers Bank, Phoenixville, Pennsylvania ("Customers Bank"), a state-chartered member of the Federal Reserve System, and a former institution-affiliated party of Cole Taylor Bank, Chicago, Illinois ("Cole Taylor Bank"), at all relevant times for purposes of this Order a state-chartered member of the Federal Reserve System (collectively, the "Banks"), to ensure compliance by Higher One with all applicable federal and state laws, rules, and regulations including, but not limited to, section 5(a)(1) of the Federal Trade Commission Act ("FTC Act") (15 U.S.C. § 45(a)(1)), the Board of Governors and Higher One have mutually agreed to enter into this combined Order to Cease and Desist and Order of Assessment of a Civil Money Penalty Issued Upon Consent (the "Order");

WHEREAS, Higher One provides financial aid and reimbursement services to colleges and universities (collectively, "Schools") and demand deposit account services to students and former students throughout the United States through relationships established by entering into Deposit Processing Service Agreements ("Agreement" or "Agreements") with insured depository institutions including, but not limited to, the Banks;

WHEREAS, Higher One, pursuant to the Agreements with the Banks, performed essential elements of the banking relationship including facilitating the opening of accounts as an agent of the Banks and soliciting deposits on behalf of the Banks;

WHEREAS, pursuant to section 7(c) of the Bank Service Company Act (12 U.S.C. § 1867(c)), services that Higher One provided to the Banks are subject to regulation and examination by the Board of Governors to the same extent that such services would be subject to regulation and examination as if performed by the Banks on their own premises;

WHEREAS, the Board of Governors, the Federal Reserve Bank of Chicago ("Chicago Reserve Bank") and the Federal Reserve Bank of Philadelphia ("Philadelphia Reserve Bank") (collectively the "Reserve Banks") have conducted inquiries that assessed the practices of Higher One, Cole Taylor Bank, and Customers Bank;

*2 WHEREAS, this Order is issued with respect to the following:

A. Schools often need to disburse financial aid refunds to students. Many types of financial aid funds are initially distributed in full to the school, which then deducts the student's tuition and other amounts payable to the school. Any remaining amount is known as a "refund." Schools are responsible for distributing refunds to the students, typically by paper check or Automated Clearing House ("ACH") transfer to a student's bank account.

B. In 2000, Higher One created the OneDisburse service (also known as the ""Refund Management" service) whereby schools could outsource the financial aid refund disbursement process, resulting in time- and cost-savings for the schools. Higher One offers students three methods of receiving their financial aid refund: (1) direct deposit to the Higher One deposit account and student debit card product known as the "OneAccount" (which was marketed at several product levels, including the OneAccount, OneAccount Flex, OneAccount Edge, and OneAccount Premier); (2) ACH transfer to another bank account; or (3) paper check, if permitted by the school.

C. Because Higher One is not an insured depository institution, as that term is defined in section 3(c)(2) of the FDI Act (12 U.S.C. § 1813(c)(2)), Higher One contracts with an insured depository institution to establish and maintain the OneAccounts. From May 4, 2012 to August 14, 2013, Cole Taylor Bank provided demand deposit accounts in connection with the OneAccounts. Customers Bank has provided demand deposit accounts in connection with the OneAccounts since August 14, 2013.

D. Through this business model, Higher One and the Banks controlled students' access to and information about financial aid refund disbursement options because students were required by their schools to use the Higher One website to select the method of the financial aid refund disbursement or wait at least two weeks to receive a refund check by default as required by Department of Education regulations.

E. Higher One benefitted from students directing their financial aid refunds to the OneAccount instead of to an alternative bank account or paper check. Higher One earned income from all fees paid by students in connection with the accounts. Some of the fees were unusual, such as a fee of 50 cents for using the debit card linked to the OneAccount as a point-of- sale purchase that is executed through entry of a PIN, rather than executed by signature like a credit card, and a fee of 3.5 percent for withdrawing funds from a bank teller (described as a "cash advance" fee). In addition, Higher One received the interchange fees paid by merchants to issuing banks in connection with the debit card linked to the OneAccount and fees paid by the Banks for servicing the account. The Banks benefitted from holding and deploying the funds held in the non-interest bearing demand deposit accounts.

*3 F. During the period from May 4, 2012 to December 19, 2013 (the ""Relevant Period"), the Higher One website and associated materials used for selecting the disbursement method for refunds contained material omissions about certain fees, features, and limitations of the OneAccount, which were likely to mislead students acting reasonably under the circumstances. Information about certain fees, features, and limitations of the OneAccount was omitted entirely or was not clear and conspicuous. Examples that were in effect at the Banks during all or part of the Relevant Period included, but were not limited to:

i. There was no information on the refund disbursement home page — the first webpage that would appear when a student started the disbursement selection process for the first time — about the ACH transfer to another bank account and paper check options, either of which may have enabled students to access their student financial aid refunds with fewer fees or no fees.

ii. On the web page where the student made a choice about the method of refund disbursement, information about the speed of receiving a refund through the OneAccount was readily available, but there was no information about the fees, features, and limitations of the OneAccount located on that page, making it difficult for students to make a fully informed decision prior to selecting the method for financial aid disbursement.

iii. Information about the availability of fee-free ATM locations was not available on the web page where the student made a choice about the method of refund disbursement. There was no information about the hours of availability of any specific fee-free ATMs located on any of the web pages, even though some fee-free ATMs were on campus locations that were closed on nights, weekends, and holidays.

iv. It was only at the final web page, after the student had selected a refund delivery mechanism and entered all personal information, that a complete fee schedule and the terms and conditions were readily available for the student to view. The fee schedule contained information about ATM fees for using non-Higher One ATMs. The student would need to click on another link to find information about fee-free ATM locations. There was no information on hours of availability for specific fee-free ATMs. If the student wanted to change his or her choice of refund delivery mechanism before opening the account, the student would need to back out through previous screens to reach the appropriate web page and resubmit all personal information.

v. Although the Banks were bricks-and-mortar institutions, there was no information on the website explaining that the OneAccount was an Internet-only checking account.

vi. The website for most of the participating schools featured the school logo more prominently than the Higher One logo or the fine-print reference to the Banks, which may have erroneously implied that the schools endorsed the OneAccount as the preferred method of disbursement of financial aid refunds.

*4 G. The deficiencies specified in paragraphs A. through F. above resulted in deceptive acts or practices in or affecting commerce, within the meaning of section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and unsafe or unsound banking practices.

WHEREAS, on July 7, 2014, after a non-objection from the Board of Governors, Higher One provided by electronic mail (or USPS mail, if necessary) the following information to existing customers who had opened OneAccounts during the Relevant Period: information about ACH transfer and paper check options for receipt of financial aid refunds; a copy of the Fee Schedule and Terms and Conditions; a description of the account closing procedures; and also provided fee waivers for certain foreign ATM, debit card, and cash transactions for a 30-day period;

WHEREAS, during the Relevant Period, there were approximately 850,000 new OneAccounts opened at the Banks, and approximately 570,000 of these accounts were assessed at least one of the fees that were not properly disclosed as described in Paragraph 8(a) of this Order;

WHEREAS, Higher One has agreed to make restitution to the Banks' account holders affected during the Relevant Period;

WHEREAS, the practices described above warrant the assessment of a civil money penalty by the Board of Governors against Higher One under section 8(i)(2) of the FDI Act, as amended (12 U.S.C. § 1818(i)(2));

WHEREAS, on December 17, 2015, the board of directors of Higher One, at a duly constituted meeting, adopted a resolution authorizing Marc Sheinbaum to enter into this Order on behalf of Higher One and consent to compliance with each and every applicable provision of this Order by Higher One and waiving any and all rights that Higher One may have pursuant to section 8 of the FDI Act (12 U.S.C. § 1818), including, but not limited to: (i) the issuance of a notice of charges; (ii) a hearing for the purpose of taking evidence on any matters set forth in this Order; (iii) judicial review of this Order; (iv) contest the issuance of this Order by the Board of Governors; and (v) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of this Order or any provision hereof:

NOW, THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony, it is hereby ORDERED, pursuant to section 7(d) of the Bank Service Company Act (12 U.S.C. § 1867(d)) and sections 8(b)(1), and 8(i)(2) of the FDI Act (12 U.S.C. §§ 1818(b)(1), and 1818(i)(2)), that:

No Misrepresentations or Omissions

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1. Higher One shall continue to take all action necessary to correct all violations of the FTC Act cited in The Federal Reserve's UDAP Review of the OneAccount Product Offered by Cole Taylor Bank and Higher One, Inc., dated May 7, 2014, and The Federal Reserve's UDAP Review of the OneAccount Product Offered by Customers Bank and Higher One, Inc. dated May 8, 2014, and maintain future compliance with the FTC Act with respect to the OneAccount or any student financial aid-related consumer deposit or lending product or service that is or may be offered when Higher One is acting as an institution-affiliated party or service provider for a state member bank ("State Member Bank Partner") ("Products or Services"). Higher One shall not make, or allow to be made, any misleading or deceptive representation, statement, or omission, expressly or by implication, in the marketing materials, telemarketing scripts, sales presentations, websites, and/or any similar communications used to solicit any Product or Service. Additionally, Higher One shall take all action necessary to ensure that all material information needed by a consumer to make an informed decision about the method of receiving a financial aid refund is provided in advance of a consumer making such a decision and that all representations are substantiated. Without limiting the generality of the foregoing, Higher One shall not make any misrepresentations and/or omissions including, but not limited to, any misrepresentation and/or omissions of material facts related to:

*5 (a) options for receiving financial aid refunds through a bank account by ACH transfer and by paper check;

(b) information about the fees, features and limitations of the OneAccount, including limitations on cash deposits and withdrawals;

(c) information about fee-free ATM locations and hours of availability, including information on fees assessed by foreign ATMs;

(d) whether the school endorses or prefers the OneAccount over the options of consumers' receipt of the financial aid refund through another bank account by ACH transfer or by paper check; and

(e) the approximate timing of funds availability for each financial aid disbursement option.

2. Higher One shall ensure that all marketing materials, telemarking scripts, sales presentations, websites, and/or any similar communications used to solicit any consumer to open an account at a state member bank clearly and conspicuously disclose Higher One's name and the State Member Bank Partner's name, including contact information for Higher One and the State Member Bank Partner.

3. Higher One shall clearly and conspicuously disclose to consumers, prior to choosing a financial aid refund disbursement method, the locations and availability of its network of ATMs, and that the use of ATMs on other networks will result in foreign ATM fees.

Consumer Compliance Risk Management Program

4. Within 90 days of this Order, Higher One shall submit to the Philadelphia Reserve Bank an acceptable written plan to enhance the consumer compliance risk management program to ensure that the marketing, processing, and servicing of all consumer Products and Services comply with all consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)). The plan shall, at a minimum, address, consider, and include:

(a) measures to ensure that the program is developed in accordance with applicable supervisory guidance of the Board of Governors, including, but not limited to, the guidance entitled, "Guidance on Managing Outsourcing Risk," dated December 5, 2013 (SR 13- 19/CA 13-21); "Community Bank Risk-Focused Consumer Compliance Supervision Program," dated November 18, 2013 (CA 13-19); "Consumer Compliance Examination Procedures for the Unfair or Deceptive Acts or Practices Provisions of Section 5 of the Federal Trade Commission Act," dated November 6, 2007 (CA 07-8); and "Unfair or Deceptive Acts or Practices by State- Chartered Banks," dated March 11, 2004 (CA 04-2);

(b) measures to enhance the Higher One website and other consumer communications to ensure that consumers receive material information in a manner that is timely, accurate, clear, and conspicuous;

(c) measures to ensure that the compliance program is administered by compliance personnel with sufficient expertise in, and knowledge of, applicable consumer protection laws and regulations, including section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), and to ensure that sufficient personnel is provided to fully comply with all requirements of this Order;

*6 (d) measures to enhance appropriate policies and procedures for:

(i) the review, approval and maintenance by Higher One and any State Member Bank Partner of: (1) all marketing, advertising, solicitation materials (including direct mail or Internet solicitations, promotional materials, telemarketing scripts and website content), and similar communications; (2) other materials provided to consumers generated in connection with the marketing, processing, and servicing of Products or Services, including any agreements and account statements; (3) all materials related to customer service; and (4) any material changes thereto;

(ii) to the extent permitted by applicable law promptly notifying any State Member Bank Partner, of any consumer complaints, regardless of the source; inquiries or investigations from federal or state agencies or legislative bodies; and legal actions received from any party;

(iii) promptly addressing and resolving consumer complaints and inquiries arising from any product or service, monitoring such complaints and inquiries and identifying any trends concerning the nature of the complaints, and promptly addressing the root causes of such complaints and inquiries;

(iv) maintaining and, to the extent permitted by applicable law, making available upon request by a State Member Bank Partner any and all records, reports and materials required by this Order or related to a Product or Service provided;

(v) assessing consumer compliance risk and performing the necessary due diligence in the approval of new products or new outsourcing arrangements, and implementation of appropriate risk management procedures and controls for new products or outsourcing arrangements; and

(vi) updating policies and procedures on an ongoing basis as necessary to incorporate new or changes to consumer protection laws, regulations, and supervisory guidance issued by federal agencies;

(e) measures to ensure on-going, periodic training of appropriate Higher One personnel, including the board and senior management, that addresses compliance with consumer protection laws and regulations, including, but not limited to, section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1));

(f) measures to enhance the risk monitoring process and management information systems to identify, manage and promptly correct compliance weaknesses, including any weaknesses in compliance with section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), in the marketing, processing, and servicing of Products or Services; and

(g) measures to enhance the internal controls, including enhancing internal audits for compliance with consumer protection laws and regulations, including compliance with section 5(a)(1) of the FTC Act (15 U.S.C. § 45(a)(1)), in the marketing, processing, and servicing of Products or Services.

5. Higher One shall ensure that any arrangement to offer Products or Services with any State Member Bank Partner provides that the State Member Bank Partner has ultimate authority to determine the terms, manner, and conditions under which any product or service will be offered to consumers, and that Higher One will make any changes, on a prospective basis, to such

terms, manner, and conditions as the State Member Bank Partner deems necessary to comply with applicable laws, regulations, or regulatory guidance.

Restitution and Other Relief

*7 6. Within 10 days of this Order, Higher One shall deposit an amount of not less than $24,000,000 into a qualified settlement fund pursuant to section 1.468B-1, *et seq.*, of the Treasury Regulations, promulgated under section 468B of the Internal Revenue Code, or otherwise into a segregated deposit account at an insured depository institution acceptable to the Philadelphia Reserve Bank ("Reserve Account") for the purpose of providing restitution as provided by this Order. Higher One shall make all restitution payments required by this Order regardless of whether the total of such payments exceeds the segregated amount required by this Paragraph. No disbursements may be made out of the Reserve Account, except those made pursuant to the restitution plan submitted to and not objected to by the Philadelphia Reserve Bank pursuant to the terms of Paragraph 8 of this Order.

7. (a) Within 30 days of the Order, Higher One shall submit to the Philadelphia Reserve Bank for non-objection a proposed announcement regarding this Order and restitution to be posted on Higher One's website, including procedures whereby individuals can check their eligibility for restitution to be made by Higher One and provide updated electronic mail and/or United States Postal Service mailing address information, via a toll-free number and via the Higher One website, if they have not received electronic mail and/or a letter from Higher One addressing this Order. Higher One shall submit to the Philadelphia Reserve Bank, for review and non-objection, the proposed announcement and procedures. The Philadelphia Reserve Bank shall notify Higher One in writing of any comments or non-objection to the proposed announcement and procedures. Higher One shall address any comments of the Philadelphia Reserve Bank, and make such changes as may be required. Upon receipt of the Philadelphia Reserve Bank's written non-objection, the announcement and procedures, incorporating any changes that may be required in response to comments by the Philadelphia Reserve Bank, shall be implemented by Higher One, without further changes.

(b) Higher One shall submit to the Philadelphia Reserve Bank the text of an announcement to all of Higher One's OneDisburse clients whose accounts are handled by a State Member Bank Partner notifying them of this Order.

8. Within 60 days of this Order, Higher One shall submit to the Philadelphia Reserve Bank an acceptable written plan to provide for remediation and restitution in connection with this Order ("OneAccount Restitution Plan"). The OneAccount Restitution Plan shall, at a minimum, address, consider, and include:

(a) Provisions for Higher One to make the restitution described in accordance with the provisions set forth below:

(i) Higher One shall make restitution to OneAccount account holders who opened a OneAccount at Cole Taylor Bank or Customers Bank during the Relevant Period (the "Eligible Consumers");

(ii) Restitution shall consist of all OneAccount fees received from all Eligible Consumers on or after May 4, 2012 and to and including July 7, 2014 ("Restitution Period") for: merchant PIN-based debit transactions; non-Higher One ATM transactions; abandoned accounts; cash advance *(i.e.*, bank teller withdrawal); delinquent accounts; GreenDot cash deposit; lack of documentation; and other improperly disclosed uncategorized fees that are not specifically identified above ("Restitution Fees");

***8** (iii) Restitution provided by Higher One shall not limit consumers' rights in any way;

(iv) Restitution Fees may be decreased in the following amounts to the extent that Higher One provides appropriate documentation:

a. by the amount of any of the Restitution Fees already refunded to Eligible Consumers during the Restitution Period and one month thereafter, provided that the refund corresponds to one or more of the Restitution Fees;

b. by the amount of any of the Restitution Fees charged off for Eligible Consumers during the Restitution Period and one month thereafter, provided that the fee charged off corresponds to one or more of the Restitution Fees; and,

c. by the amount of restitution provided to Eligible Consumers as a result of the settlement in *In re: Higher One OneAccount Marketing and Sales Practices Litigation*, No. 3:12-md-02407 (VLB) (D. Conn.) with respect to Restitution Fees charged to Eligible Consumers during the Restitution Period;

(v) Restitution shall apply to all Eligible Consumers regardless of whether the OneAccounts are closed, charged-off, sold, or otherwise transferred at the time of restitution except as provided for in Paragraph 8(a)(iv);

(vi) Except as provided herein, payments of the Restitution Fees for the Restitution Period shall be made by credits to the OneAccounts of Eligible Consumers entitled to such credits for those accounts held by Customers Bank. If, as of the date that restitution would have been made pursuant to this Order, an Eligible Consumer's OneAccount has been closed, charged-off, sold, or otherwise transferred, the amount of restitution to which the Eligible Consumer is entitled will be made by check to the holder of the respective OneAccount; and

(vii) Higher One shall provide the Philadelphia Reserve Bank with the data and information necessary to determine the restitution for Eligible Consumers, after which the Philadelphia Reserve Bank shall provide Higher One with the list of Eligible Consumers and the amounts of restitution to be paid to each Eligible Consumer. After an opportunity for Higher One to comment, the Philadelphia Reserve Bank shall submit to Higher One (and any third-party identified in the accepted OneAccount Restitution Plan as the trustee/paying agent) the final list of Eligible Consumers and amount of restitution to be paid to each, and payment by Higher One (or the third-party paying agent) of such amounts pursuant to the OneAccount Restitution Plan shall be deemed in compliance with the restitution requirements of this Order.

(b) Proposed text of the electronic mail, letters, and envelopes that will be sent to Eligible Consumers entitled to credits to their accounts, the proposed text of the letters that will accompany the restitution checks to Eligible Consumers, and a proposed sample restitution check. The text of the electronic mail and letters shall include: satisfactory language explaining the reason Higher One is crediting the account or sending a restitution check together with an explanation of the manner in which the amount of restitution was calculated; a reference to and the web addresses for any press releases by the Board of Governors related to this Order; and a statement that the restitution payment does not, in any manner, limit a consumer's rights. The face of each restitution check shall clearly and conspicuously state the number of days within which the Eligible Consumer must cash the check. The Philadelphia Reserve Bank shall notify Higher One in writing of any comments or non-objection to the proposed electronic mail, letters, checks, or envelopes. Higher One shall address any comments of the Philadelphia Reserve Bank, making such changes as may be required to the proposed electronic mail, letters, checks, or envelopes. The electronic mail, letters, checks, or envelopes incorporating any changes that may be required in response to comments by the Philadelphia Reserve Bank shall be sent without further changes to all Eligible Consumers entitled to receive credits to their accounts or checks for restitution in accordance with this Order.

*9 9. Within 20 days after receipt of the Philadelphia Reserve Bank's written nonobjection of the OneAccount Restitution Plan, the restitution described in Paragraph 8 shall be made and the electronic mail, letters, checks, and envelopes described in Paragraph 8 shall be sent in accordance with the Philadelphia Reserve Bank's comments, if any, to the Eligible Consumers. Electronic mail for Eligible Consumers who are to receive restitution by credits shall be sent to the electronic mail address of the Eligible Consumers. Letters and any checks are to be sent by United States Postal Service first-class mail, address correction service requested, to each Eligible Consumer's last known address reflected in Higher One's records, the school's records if available, or the most recent address provided by the National Change of Address System. The envelopes shall contain only the materials to which the Reserve Bank has provided a non-objection. Higher One shall make reasonable attempts to locate Eligible Consumers or their estates, including a standard address search using the National Change of Address System, or other similar system, if the notification letter and/or restitution check is returned for any reason. Higher One shall promptly re-mail all returned letters and restitution checks to corrected addresses, if any.

10. (a) No earlier than 90 days from the date the restitution checks were originally mailed ("Void Date"), Higher One may void all checks that were returned or have not been negotiated, provided Higher One includes a mechanism in the OneAccount Restitution Plan by which Eligible Consumers can obtain a restitution payment for a period of 360 days from the date the restitution check was originally mailed.

(b) The total amount of any restitution payments that had been made by checks that were voided and that were not cashed or deposited by Eligible Consumers, and the total amount of any interest or other payments earned on the Reserve Account shall be distributed to the United States Treasury.

(c) Once the Board of Governors determines that all required restitution obligations described in paragraphs 9 and 10 (a) and (b) of this Order have been satisfied and the Board of Governors issues the appropriate non-objection, Higher One may close the Reserve Account and remit to Higher One any excess funds remaining therein.

Independent Third-Party Auditor

11. Within 30 days of the date of this Order, Higher One shall hire an independent auditor who is acceptable to the Philadelphia Reserve Bank, who shall verify that Higher One made restitution as directed by the Philadelphia Reserve Bank. The independent auditor shall prepare a final written report ("Final Report") evaluating the processes and procedures by which Higher One determined and made the restitution, including the amounts of all restitution credits and refunds required by this Order. The OneAccount Restitution Plan shall contain a date by which the independent auditor's Final Report shall be submitted to the Philadelphia Reserve Bank for non-objection. Prior to delivery of the Final Report, the Philadelphia Reserve Bank may require the independent auditor to produce an interim report or other updates related to Higher One's restitution of Eligible Consumers as required by this Order. All reports by the independent auditor shall be submitted to Higher One and the Philadelphia Reserve Bank.

Civil Money Penalty

***10** 12. The Board of Governors hereby assesses Higher One a civil money penalty in the amount of $2,231,250 to be paid to the Board of Governors at the time of the execution of this Order by Fedwire transfer of immediately available funds to the Federal Reserve Bank of Richmond, ABA No. 05 1000033, beneficiary, Board of Governors of the Federal Reserve System. The Board of Governors or the Federal Reserve Bank of Richmond on its behalf shall remit the funds for the civil money penalty assessment to the United States Treasury, pursuant to section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)).

Approval and Implementation of Plans and Programs

13. Higher One shall submit written plans that are acceptable to the Philadelphia Reserve Bank within the applicable time periods set forth in this Order.

14. Unless otherwise provided above, within 10 days of approval by the Philadelphia Reserve Bank, Higher One shall adopt the approved plans. Upon adoption, Higher One shall promptly implement the approved plans, and thereafter fully comply with them.

15. During the term of this Order, the approved plans shall not be amended or rescinded without the prior written approval of the Philadelphia Reserve Bank.

16. Higher One shall make no representations to any insured depository institution, any consumer, or any other person or entity that the Board of Governors, the Reserve Banks, or any employee, agent, or representative of the Board of Governors or the Reserve Banks have endorsed or approved any aspect of any product or service offered by Higher One.

Recordkeeping

17. For 7 years from the effective date of this Order, Higher One shall retain all records pertaining to the OneAccount Restitution Plan including but not limited to: documentation of the processes and procedures used to determine Eligible Consumers; the names, contact, and account information of Eligible Consumers; any mailing records; and documentation that the appropriate restitution and equitable relief were made.

Communications

18. All communications regarding this Order shall be sent to:

(a) Chris Henderson

Assistant Vice President

Federal Reserve Bank of Philadelphia

Ten Independence Mall

Philadelphia, Pennsylvania 19106

(b) Richard M. Ashton

Deputy General Counsel

Board of Governors of the Federal Reserve System

Washington, D.C. 20551

(c) Casey McGuane

Chief Operating Officer

Higher One, Inc.

115 Munson Street

New Haven, Connecticut 06511

With a copy to:

(d) William F. Kroener III

Sullivan & Cromwell LLP

1700 New York Avenue, NW, Suite 700

Washington, D.C. 20006

Miscellaneous

19. Notwithstanding any provision of this Order to the contrary, the Philadelphia Reserve Bank may, in its discretion, grant written extensions of time to Higher One to comply with any provision of this Order.

20. The provisions of this Order shall be binding upon Higher One, its institution- affiliated parties, in their capacities as such, and its successors and assigns.

*11 21. Each provision of this Order shall remain effective and enforceable until stayed, modified, or terminated, or suspended in writing by the Philadelphia Reserve Bank.

22. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Banks, or any other federal or state agency from taking any further or other action affecting Higher One, or any of its current or former institution-affiliated parties or its successors or assigns, or any other of Higher One's subsidiaries; however, the Board of Governors shall not take any further action against Higher One based upon the conduct described in the WHEREAS clauses of this Order to the extent known by the Board of Governors as of the effective date of this Order. This release and discharge shall not preclude or affect any right of the Board of Governors to determine and ensure compliance with this Order or any proceeding brought by the Board of Governors to enforce the terms of this Order.

23. Nothing in this Order, expressed or implied, shall give to any person or entity, other than the parties hereto and their successors hereunder, any legal or equitable right, remedy, or claim under this Order.

By Order of the Board of Governors of the Federal Reserve System effective this 23 rd day of December, 2015.

Higher One, Incorporated
By: Marc Sheinbaum
Chief Executive Officer
Board of Governors of the Federal Reserve System
By: Robert deV. Frierson
Secretary of the Board

2015 WL 9690754 (F.R.B.)

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